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13 **UNITED STATES DISTRICT COURT**
14 **CENTRAL DISTRICT OF CALIFORNIA**

16 IN RE: TOYOTA MOTOR CORP.
17 UNINTENDED ACCELERATION
MARKETING, SALES PRACTICES, AND
PRODUCTS LIABILITY LITIGATION

18 This document relates to:

19 ALL ECONOMIC LOSS CASES

20 Case No.: 8:10ML2151 JVS (FMOx)

21 **TOYOTA DEFENDANTS'**
22 **REQUEST FOR ENTRY OF THE**
23 **COURT'S ORDER RE RICO CASE**
24 **STATEMENT**

1 The foreign plaintiffs (“Foreign Plaintiffs”) in their Amended Foreign
2 Economic Loss Master Consolidated Complaint have asserted a claim under the
3 federal Racketeer Influenced and Corrupt Organizations (“RICO”) provision of the
4 Organized Crime Control Act of 1970. (Dkt. No. 449, ¶¶ 306-351.)

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The Toyota Defendants therefore request that the Court enter its Order Re RICO Case Statement, attached hereto as Exhibit A, and direct the Foreign Plaintiffs to comply.

Respectfully submitted,

DATED: November 4, 2010

By: _____ /s/
Lisa Gilford

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EXHIBIT A

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

v. Plaintiff, Defendants.

CASE NO.
ORDER RE RICO CASE STATEMENT

In this action, claims have been asserted under the Racketeer Influenced and Corrupt Organizations provisions of the Organized Crime Control Act of 1970 ("RICO"), 18 U.S.C. § 1961 *et seq.* Accordingly,

IT IS HEREBY ORDERED as follows:

Plaintiff¹ shall file, within twenty (20) days hereof, a RICO case statement. The statement shall include the facts relied upon to initiate this RICO complaint as a result of the reasonable inquiry required by Rule 11 of the Federal Rules of Civil

¹ If the party asserting a RICO violation is not the plaintiff, such as a counterclaimant , this requirement applies to such party as well.

1 Procedure. It shall use the caption numbers and letters set forth below, and shall
2 state in detail and with specificity the following information.

3

4 1. RICO Provision. State whether the alleged unlawful conduct is in
5 violation of 18 U.S.C. §§ 1962(a), (b) (c), and/or (d).

6

7 2. Defendants. List each RICO defendant and state the alleged
8 misconduct and basis of liability of each defendant.

9

10 3. Other RICO Violators. List all alleged RICO violators, other than the
11 defendants listed above, and state the alleged misconduct of each
12 wrongdoer.

13

14 4. Victims. List the alleged victims and state how each victim was
15 allegedly injured.

16

17 5. Pattern of Racketeering Activity. Describe in detail the pattern of
18 racketeering activity or collection of unlawful debts alleged for each
19 RICO claim. A description of the pattern of racketeering shall include
20 the following information:

21

22 a. List the alleged predicate acts and the specific statutes which
23 were allegedly violated;

24

25 b. Provide the dates of the predicate acts, the participants in the
26 predicate acts, and a description of the facts surrounding the
27 predicate acts;

28

- 1 c. If the RICO claim is based on the predicate offenses of mail
2 fraud, wire fraud or fraud in the sale of securities, the
3 “circumstances constituting fraud or mistake shall be stated with
4 particularity.” Fed. R. Civ. P. 9(b). Identify the time, place and
5 contents of the alleged failures to disclose and/or
6 misrepresentations, and the identity of persons to whom and by
7 whom the alleged misrepresentations and/or failures to disclose
8 were made;
- 9
- 10 d. State whether there has been a criminal conviction for violation
11 of the predicate acts and if so, provide particulars;
- 12
- 13 e. State whether civil litigation has resulted in a judgment with
14 respect to the predicate acts and if so, provide particulars;
- 15
- 16 f. Describe how the predicate acts are both “related” and
17 “continuous” within the meaning of *H.J. Inc. v. Northwestern*
18 *Bell Telephone Co.*, 492 U.S. 229, 239, 109 S.Ct. 2893, 2900
19 (1989) and its progeny, including *Allwaste, Inc. v. Hecht*, 65
20 F.3d 1523, 1527 (9th Cir. 1995).
- 21
- 22 6. Enterprise. Describe in detail the alleged enterprise for each RICO
23 claim and specify just what structure it had. A description of the
24 enterprise shall include the following information:
- 25
- 26 a. The names of the individuals, partnerships, corporations,
27 associations or other legal entities that allegedly constitute the
28 enterprise;

- 1
- 2 b. The purpose, function and course of conduct of the enterprise;
3 and whether its usual and daily activities were part of or separate
4 from the pattern of racketeering activity. See *Chang v. Chen*, 80
5 F.3d 1293, 1298 (9th Cir. 1996.)
- 6 c. Whether any named defendants are or were employees, officers
7 or directors of the alleged enterprise;
- 8 d. Whether you are alleging that the defendants are or were separate
9 from the alleged enterprise, collectively constitute the enterprise
10 itself, or are or were members of the enterprise; and
- 11
- 12 e. Whether (and if so how) the enterprise was affected by or
13 benefitted from the pattern of racketeering activity.

14

15 7. Interstate or Foreign Commerce. Describe the effect of the activities of
16 the enterprise on interstate or foreign commerce.

17

18 8. Section 1962(a). If the complaint alleges a violation of 18 U.S.C. §
19 1962(a), provide the following information:

- 20
- 21 a. State who received the income derived from the pattern of
22 racketeering activity or through the collection of an unlawful
23 debt; and
- 24
- 25 b. Describe the use or investment of such income.

26

27 9. Section 1962(b). If the complaint alleges a violation of 18 U.S.C. §
28 1962(b), describe in detail the acquisition or maintenance of any

1 interest in or control of the alleged enterprise.
2

3 10. Section 1962(c). If the complaint alleges a violation of 18 U.S.C. §
4 1962(c), provide the following information:

- 5
- 6 a. State who is employed by or associated with the enterprise; and
7 b. State whether the same entity is both the liable "person" and the
8 "enterprise" under § 1962(c).

9

10 11. Section 1962(d). If the complaint alleges a violation of 18 U.S.C. §
11 1962(d), describe in detail the alleged conspiracy.

12

13 12. Injury to Business or Property.

- 14
- 15 a. Describe the alleged injury to business or property;
16
17 b. Describe the direct causal relationship between the alleged injury
18 and the violation of the RICO statute.

19

20 13. Damages. List the damages sustained for which each defendant is
21 allegedly liable.

22

23 14. State Claims. List all supplemental state claims, if any.

24

25 Dated: _____

26 _____ James V. Selna
27 United States District Judge